

37 Am. Jur. 2d Fraud and Deceit § 67

American Jurisprudence, Second Edition | May 2021 Update

Fraud and Deceit

George Blum, J.D., John Bourdeau, J.D., Romualdo P. Eclavea, J.D., Janice Holben, J.D., Karl Oakes, J.D. and Eric C. Surette, J.D.

IV. False Representations

B. Necessity that Representation Be of Fact; Opinions

2. Distinctions Between Statements of Fact and Opinion

§ 67. Belief or judgment of maker or recipient; Restatement definition

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Fraud](#)  11

According to the Restatement Second, Torts, a representation is one of opinion if it expresses only: (1) the belief of the maker, without certainty, as to the existence of a fact; or (2) his or her judgment as to quality, value, authenticity, or other matters of judgment.¹ This “belief” has been characterized as a “casual belief” by some courts.² The Restatement Second, Contracts takes a similar approach, stating that an assertion is one of opinion if it expresses only a belief, without certainty, as to the existence of a fact or expresses only a judgment as to quality, value, authenticity, or similar matters.³

© 2021 Thomson Reuters. 33-34B © 2021 Thomson Reuters/RIA. No Claim to Orig. U.S. Govt. Works. All rights reserved.

Footnotes

¹ [Restatement Second, Torts § 538A.](#)

² [Anderson v. Deloitte & Touche, 56 Cal. App. 4th 1468, 66 Cal. Rptr. 2d 512 \(1st Dist. 1997\).](#)

³ [Restatement Second, Contracts § 168\(1\).](#)

End of Document

© 2021 Thomson Reuters. No claim to original U.S. Government Works.